

ENTERED

October 25, 2018

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

ROMARCUS DEON MARSHALL,	§
	§
Plaintiff,	§
VS.	§ CIVIL NO. 2:18-CV-44
	§
RAFAEL MENCHACA, <i>et al</i> ,	§
	§
Defendants.	§

ORDER

The Court has received Plaintiff's Amended Complaint, Dkt. No. 17; the magistrate judge's May 3, 2018 Memorandum and Recommendation (M&R), Dkt. No. 18; and Plaintiff's objections to the M&R, Dkt. No. 21. The M&R recommends that the Court dismiss with prejudice Plaintiff's action and count the dismissal as a "strike" for the purposes of 28 U.S.C. § 1915(g). Dkt. No. 18 at 1–2. On May 29, 2018, Plaintiff filed an objection to the M&R. Dkt. No. 21.

The Court reviews objected-to portions of the magistrate judge's proposed findings and recommendations de novo. 28 U.S.C. § 636(b)(1). After independently reviewing the filings, the record, and applicable law, the Court **ADOPTS** the M&R, Dkt. No. 18. Accordingly, the Court **DISMISSES WITH PREJUDICE** the above-captioned case for failure to state a claim and/or as frivolous under 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1), and **DISMISSES WITHOUT PREJUDICE** Defendant Texas Department of Criminal Justice (TDCJ).

This dismissal counts as a “strike” for purposes of 28 U.S.C. § 1915(g). The Court therefore **INSTRUCTS** the Clerk to send notice of this dismissal to the Manager of the Three Strikes List for the Southern District of Texas at Three_Strikes@txs.uscourts.gov. The Court will direct entry of final judgment separately.

SIGNED this 25th day of October, 2018.



Hilda Tagle
Hilda Tagle
Senior United States District Judge